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July 26, 1999

Magalie Roman Salas, Secretary
Federal Communications Commission
455 Twelfth Street S.W.
Washington, DC 20554

RECEIVED
AUG 24 1999
FCC MAIL ROOM

Re: RM-9673, Petition for Rulemaking, Filed by the Central States VHF Society

Dear Madame Secretary:

Attached is the response of No Code International to the "Reply Comments of William A. Tynan" in the above-referenced Proceeding, along with a Certificate of Service attesting to the fact that copies of these comments were mailed to the various interested parties whose Comments were addressed in this response.

Included are sufficient copies for your files as well as the Commissioners and the WTB staff members enumerated in the following cc: list.

Also enclosed for your convenience in posting this material to the ECFS is a floppy disk containing Adobe Acrobat .pdf format copies of this cover letter, the Response, and the Certificate of Service.

Thank you for the opportunity to participate in the regulatory process.

A handwritten signature in black ink, appearing to read "Carl R. Stevenson".

Director, No Code International
As directed by the Board of Directors as a Whole

cc: Thomas J. Sugrue, Chief, WTB
D'wana R. Terry, Chief, Private Wireless Division, WTB
John Borkowski, Chief, Policy & Rules Branch, Private Wireless Division, WTB
William Cross, Private Wireless Division, WTB

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:)
)
The Petition for Rulemaking filed by the)
Central States VHF Society --)
)
Request to change Part 97.305 of the)
Commission's Rules to limit certain types)
Of transmission on prescribed portions of)
The Amateur VHF and UHF bands)

**RECEIVED
AUG 24 1999
RM-9673 FCC MAIL ROOM**

To: The Secretary,
 Federal Communications Commission

cc: Chairman William E. Kennard
 Commissioner Susan Ness
 Commissioner Michael Powell
 Commissioner Harold Furchgott-Roth
 Commissioner Gloria Tristani

**RESPONSE OF NO CODE INTERNATIONAL TO THE "REPLY COMMENTS"
OF WILLIAM A. TYNAN, W3XO, IN THE ABOVE-REFERENCED
RULEMAKING**

1. No Code International ("NCI"), on behalf of its Members, by its Board of Directors, hereby submits its response to the "Reply Comments of William A. Tynan, W3XO.

Discussion

2. No Code International previously filed timely Comments in Opposition to a Petition for Rulemaking, designated by the Commission as RM-9673.
3. We have received, electronically, from Mr. Tynan a courtesy copy of the "Reply Comments Offered by William A. Tynan W3XO" and believe it necessary to respond to the comments made therein.
4. Mr. Tynan continues to chant the mantra "Long haul weak signal work on the bands above 50 MHz is vital to the continued contributions amateurs are making to the state of the radio communications art." NCI believes this greatly overstates the importance of the vast majority of such operations in an effort to illicit the response the Petitioners desire.
5. As NCI pointed out quite correctly in its timely-filed Comments: *"the reality is that this is less the case today than in the past for several valid reasons, neither of which reflect badly on either the ARS as a whole, nor on the operators who engage in such "weak signal" activities:*
 - *Today such propagation phenomena are well understood due to the extensive amateur and commercial experience in these bands over the past several decades.*
 - *The CSVHFS admits in its Petition that the "weak signal" activities they seek to protect (virtually always) employ "Morse Code CW and SSB voice" transmissions.¹ While these can admittedly be effective means of communicating, they are certainly not "ground-breaking experimental work," since Morse CW and SSB are both well-understood techniques which have been around for decades.*
 - *Furthermore, today the vast bulk of such "weak signal" operations consists primarily of contesting and award seeking activities wherein the communications are completely recreational and non-essential in nature and designed solely for the purpose of gathering "points" by contacting stations in other states, counties, geographical "grid squares," etc. While such activities are fine, NCI does not believe that they are deserving of some sort of "protected class" status.*

¹ From the Petition of the CSVHFS, first paragraph at the top of the second page.

6. In his Reply Comments, Mr. Tynan attempts to characterize NCI's completely accurate statements as "*casting aspersions on what (NCI) perceives 'weak signal' people do.*" On the contrary, it is easy to see from even a casual reading of NCI's comments that NCI made no attempt to "cast aspersions," but simply pointed out the true nature of the vast bulk of such "long haul weak signal VHF/UHF" communications and stated the view that while there is nothing wrong with them, they are not deserving of some sort of "protected class" status.

7. Since Mr. Tynan raised the topic of "casting aspersions," we feel compelled to point out that Mr. Tynan seems to have no problem in doing so himself and manages to find a number of targets (in addition to NCI), all of whom, "coincidentally," oppose the instant Petition. In fact, the entire body of Mr. Tynan's comments seems to consist of little more than outrageous and unsubstantiated attacks on an abbreviated "hit list" of the major parties who oppose the outcome he seeks.

- First, at the end of his 3rd paragraph, he appears to attempt to en masse characterize the bulk of new amateurs as ignorant people who can only be expected to cause problems, stating: "*The influx of new operators, most of whom have not been brought up in the tradition of amateur radio and belong to no organization, national or otherwise, can only exacerbate the problem.*" NCI would be interested in a citation to Mr. Tynan's source of information supporting the "fact" that "*most ... (new operators) ... belong to no organization, national or otherwise ...*" We would also be interested in any factual studies which he may reference that demonstrate that belonging to an organization automatically makes one a better, more considerate, or more compliant operator (or, conversely, that not belonging automatically makes one a "bad" operator).
- Second, Mr. Tynan sets his sights on the American Radio Relay League, asserting that "*... the ARRL band plans are hopelessly out of date and no effort has been made to revise them.*" and that he "*... find(s) it disingenuous of them to cite band plans as a solution to the problem raised by CSVHFS.*" The fact of the matter is that the ARRL, in their Comments, stated that the CSVHFS had neither quantified the problem nor made a compelling case for additional restrictive regulation.

- Mr. Tynan then moves on to the Texas VHF FM Society ("TXVHFFMS"), apparently questioning their right to comment in this proceeding, stating, *"One also wonders how an organization strictly limited to the borders of Texas, as large as the state is, can speak for the entire country."* NCI does not recall seeing the TXVHFFMS claim in its Comments to *"speak for the entire county," in the same vein, NCI cannot help but wonder how the CSVHFS, a regional body, can presume to speak for the entire country.* Before moving on to his next target, Mr. Tynan spends an additional couple of paragraphs effectively calling the TXVHFFMS liars (with regard to deregulatory trends and self-regulation in the Amateur Radio Service) and "finishes them off" with unsubstantiated allegations that *"One can only conclude, therefore that they are attempting to prevent Rule changes which might hamper future expansion of FM operation, such as remote bases or packet nodes, into the bands proposed by CSVHFS to be free of such activity."*
- From Texas, Mr. Tynan's "travels" take him west to southern California, the home of the 220 Spectrum Management Association ("220SMA"). He makes note of the fact that the 200SMA's local band plan *"... is in direct contravention of the ARRL band plan"* (which he previously characterized as *"hopelessly out of date"*), in that the 220SMA's local band plan *"...cite(s) the existence in their area of '3 FM simplex channels plus 1 packet channel. in the 222.0 - 222.150 MHZ portion of the band."* It has been well-established that local band plans may differ from the ARRL's suggested band plan, based on local needs and conditions. Apparently the existence of *"3 FM simplex channels plus 1 packet channel"* (in 150 kHz of public spectrum) is "too much" for the CSVHFS to "tolerate," even though those channels are used in that manner (according to local needs, agreement, and judgment) something on the order of 1000 miles or more from the "central states." Finally, Mr. Tynan calls into question the honesty and integrity of the 220SMA with respect to their statement that their vote was "unanimous" and states his (unsubstantiated) belief that their statements to the Commission were *"misleading at best and untrue at worst."*
- Before moving on to other targets, Mr. Tynan apparently felt compelled to take one last swipe at both the TXVHFFMS and the 220SMA, stating *"One must wonder why organizations like TXVHFFMS and 220SMA feel called upon to oppose such a moderate request. One can only conclude they want it ALL! This is the best argument I can think of for instituting the RM."* It seems to appear that, to Mr. Tynan, anyone who opposes his proposals "must" have sinister and ulterior motives. It seems to be beyond his comprehension that people of good conscience and with true concern for the welfare of amateur radio could possibly disagree with his views.

8. The final organization Mr. Tynan chose to attack was NCI. Since this is NCI's response, we will address his comments, misconceptions, and aspersions with respect to NCI and the issues at hand point by point in the following paragraphs.

9. With respect to NCI and its Comments, Mr. Tynan states "*They seem to be intent on eliminating essentially all regulation.*" Had Mr. Tynan qualified his statement by stating "*They seem to be intent on eliminating essentially all unnecessary regulation.*" his comment would have been considerably closer to the truth (though less in line with the inflammatory, accusatory nature of the remainder of his comments with respect to those who in good conscience oppose his desired outcome in this proceeding.)

10. NCI believes that it is the agenda of, and Congress' mandate to, this Commission to eliminate all unnecessary regulations and, where some regulation is deemed necessary, to reduce it to the minimum regulation necessary to achieve the Commission's legitimate regulatory objectives. NCI supports this agenda.

11. Having (falsely) accused NCI of "*casting aspersions at what (NCI) perceive(s) 'weak signal' people do,*" as outlined above, Mr. Tynan attempts to characterize NCI and its members as some sort of mass of technical incompetents (clearly "inferior" to Mr. Tynan and his "weak signal" buddies in his view, it would appear), stating: "*Perhaps they can tell me then what causes Sporadic E. I doubt if they even know what it is, much less its cause.*" (emphasis added)

12. Suffice it to state that amongst NCI's membership and its Board of Directors are numerous hams with longevity and experience in all aspects of amateur radio at least equal to that of Mr. Tynan, and that many are also accomplished professionals in the area of RF communications systems, equipment, and research.

13. Returning to the more central issues, one of the apparent “keystones” of Mr. Tynan’s (and the CSVHFS’) arguments in favor of “protective setasides” for “weak signal” (translation: “narrowband”) modes is that there are, at present, such artificial divisions in the bands below 30 MHz in the United States.

14. The reality is that the United States is virtually unique in this approach to “spectrum management” in the bands below 30 MHz. In virtually the entirety of the remainder of the world, there are no such artificial, arbitrary, sub-band-by-mode restrictions. In the vast majority of the world’s nations, amateurs are free to choose their frequency and operating mode, constrained only by the limits of the amateur bands themselves, not by artificial sub-bands. This situation has existed for decades without any apparent evidence of the onset of the “Armageddon” which Mr. Tynan alleges is impending at VHF/UHF.

15. This is simply a further indication of the needlessness and inadvisability of enacting additional restrictive regulations in the VHF/UHF bands as the CSVHFS and Mr. Tynan request.

CONCLUSION AND RECOMMENDATIONS

16. NCI agrees with the ARRL’s contention that the CSVHFS and Mr. Tynan have not demonstrated any quantitative evidence of a problem of such a magnitude as to justify the enactment of any additional, restrictive regulations.

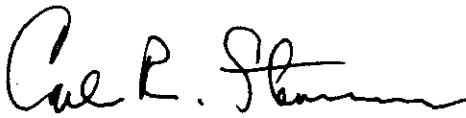
17. NCI remains convinced that the voluntary bandplans and cooperative, “gentleman’s agreements” which have served the amateur community so well for so long are adequate and sufficient and that there is no justification to either enact new restrictive

regulations, nor to effectively "codify" bandplans into (de facto) regulation through the "good amateur practice" avenue advocated by the ARRL. (On this latter point, NCI and the ARRL clearly disagree.)

18. Absent any compelling need for additional, restrictive regulations, none should be enacted.

19. NCI therefore reiterates its request and recommendation that the Commission DISMISS the Petition for Rulemaking and TERMINATE this Proceeding without further action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carl R. Stevenson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Carl R. Stevenson – WA6VSE
Director, No Code International
(as directed and approved by the Board as a whole)
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CERTIFICATE OF SERVICE:

On August 23, 1999 I mailed a true and correct copy of the attached document (described as "*RESPONSE OF NO CODE INTERNATIONAL TO THE "REPLY COMMENTS" OF WILLIAM A. TYNAN, W3XO ...*" to the following interested parties to RM-9673 as required by Section §1.47 and §1.405 of the Commission's Rules (47 C.F.R. §1.47, 47 C.F.R. §1.405)

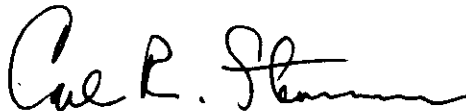
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